

CRAVATH, SWAINE & MOORE LLP

WORLDWIDE PLAZA
825 EIGHTH AVENUE
NEW YORK, NY 10019-7475

TELEPHONE: +1-212-474-1000
FACSIMILE: +1-212-474-3700

CITYPOINT
ONE ROPEMAKER STREET
LONDON EC2Y 9HR
TELEPHONE: +44-20-7453-1000
FACSIMILE: +44-20-7860-1150

WRITER'S DIRECT DIAL NUMBER
+1-212-474-1260

WRITER'S EMAIL ADDRESS
jburetta@cravath.com

ERIC W. HILFERS
GEORGE F. SCHOEN
ERIK R. TAVZEL
CRAIG F. ARCELLA
DAMIEN R. ZOUBEK
LAUREN ANGELILLI
TATIANA LAPUSHCHIK
ERIC L. SCHIELE
ALYSSA K. CAPLES
JENNIFER S. CONWAY
MINH VAN NGO
KEVIN J. ORSINI
MATTHEW MORREALE
JOHN D. BURETTA
J. WESLEY EARNHARDT
YONATAN EVEN
BENJAMIN GRUENSTEIN
JOSEPH D. ZAVAGLIA
STEPHEN M. KESSING
LAUREN A. MOSKOWITZ
DAVID J. PERKINS
JOHNNY G. SKUMPIJA
J. LEONARD TETI, II

D. SCOTT BENNETT
TING S. CHEN
CHRISTOPHER K. FARGO
KENNETH C. HALCOM
DAVID M. STUART
AARON M. GRUBER
O. KEITH HALLAM, III
OMID H. NASAB
DAMARIS HERNÁNDEZ
JONATHAN J. KATZ
MARGARET SEGALL D'AMICO
RORY A. LERARIS
KARA L. MUNGOVAN

SPECIAL COUNSEL
SAMUEL C. BUTLER
GEORGE J. GILLESPIE, III

OF COUNSEL
MICHAEL L. SCHLER

JOHN W. WHITE
EVAN R. CHESLER
PHILIP A. GELSTON
RICHARD W. CLARY
JAMES D. COOPER
STEPHEN L. GORDON
DANIEL L. MOSLEY
ROBERT H. BARON
DAVID MERCADO
CHRISTINE A. VARNEY
PETER T. BARBUR
SANDRA C. GOLDSTEIN
THOMAS G. RAFFERTY
MICHAEL S. GOLDMAN
RICHARD HALL
JULIE A. NORTH
ANDREW W. NEEDHAM
STEPHEN L. BURNS
KEITH R. HUMMEL
DAVID J. KAPPOS
DANIEL SLIFKIN
ROBERT I. TOWNSEND, III
WILLIAM J. WHELAN, III

PHILIP J. BOECKMAN
WILLIAM V. FOGG
FAIZA J. SAEED
RICHARD J. STARK
THOMAS E. DUNN
MARK I. GREENE
DAVID R. MARRIOTT
MICHAEL A. PASKIN
ANDREW J. PITTS
MICHAEL T. REYNOLDS
ANTONY L. RYAN
GEORGE E. ZOBITZ
GEORGE A. STEPHANAKIS
DARIN P. MCATEE
GARY A. BORNSTEIN
TIMOTHY G. CAMERON
KARIN A. DEMASI
LIZABETHANN R. EISEN
DAVID S. FINKELSTEIN
DAVID GREENWALD
RACHEL G. SKAISTIS
PAUL H. ZUMBRO
JOEL F. HEROLD

May 5, 2017

Martinez, et al. v. Deutsche Bank, et al.,
No. 1:17-cv-02474-(NGG) (RER)

Dear Mr. Gavin:

I respectfully write on behalf of the Moving Defendants¹ in the above-captioned matter, which was recently transferred to this district from the Southern District of Illinois after that court granted the Moving Defendants' motion to transfer. Pursuant to Rule 50.3.1 of this Court's Guidelines for the Division of Business Among District Judges (the "Guidelines") and Local Civil Rule 1.6, the Moving Defendants respectfully request a determination that this action is related to *Freeman, et al. v. HSBC Holdings plc, et al.*, 14-cv-6601(DLI)(CLP) (the "*Freeman* action"), which is pending before Chief U.S. District Judge Dora L. Irizarry, and that this action be reassigned to Chief Judge Irizarry.

Under the Guidelines, "[a] civil case is 'related' to another civil case . . . when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge". Rule 50.3.1(a). In granting the Moving Defendants' transfer motion, U.S. District Judge David Herndon found that "[P]laintiffs cannot dispute and do not dispute that this [action] and *Freeman* are basically identical". Memorandum and Order, *Martinez, et al. v. Deutsche Bank et al.*, Case No. 3:16-cv-01207-DRH-DGW (ECF No. 85) ("Transfer Order"), at 11. For the Court's convenience, a copy of the Transfer Order is attached hereto as Exhibit A. Judge Herndon further found that because "the conduct that allegedly gives rise to the

¹ The "Moving Defendants" are HSBC Holdings plc, HSBC Bank plc, HSBC Bank Middle East Limited, HSBC North America Holdings Inc., HSBC Bank USA, N.A., Barclays Bank PLC, Standard Chartered Bank, The Royal Bank of Scotland N.V., Commerzbank AG, Credit Suisse AG, and Deutsche Bank AG.

plaintiffs' cause of action is almost identical to the alleged conduct at issue in the *Freeman* case", "District Judge Irizarry is familiar with the facts and the law of the case and would be familiar with the facts and the law of this case as well". *Id.* at 12; *see also id.* at 11 n. 4 ("Based on the stages of litigation in these cases, the Court finds that District Judge Dora L. Irizarry of the Eastern District of New York would be familiar with the law and the facts of these related cases.").

Chief Judge Irizarry has presided over the *Freeman* action since 2014 and is currently adjudicating the Moving Defendants' motions to dismiss. Chief Judge Irizarry is thus familiar with the facts and legal issues relevant in both matters. A determination that this action is related to the *Freeman* action, and the reassignment of this action to Chief Judge Irizarry, would therefore conserve judicial resources.

With regard to the similarity of factual and legal issues, Judge Herndon found that:

"[T]his case is very similar to the *Freeman* case that is pending in the Eastern District of New York. With the exception of Deutsche Bank, which is not a named defendant in *Freeman*, both this case and *Freeman* contain almost the same defendants and the same allegations. In fact the cases are so similar that the original complaint contained references to the state of New York's long arm-statute and contained nearly identical allegations as *Freeman* (although the complaints did state different claims of relief). While the amended complaint in the case at bar added new allegations and added new plaintiffs, the allegations that were similar/identical to *Freeman* are still contained in the amended complaint. Clearly, defendants are litigating a nearly identical suit in the Eastern District of New York and this heavily weighs in favor of transfer . . . [P]laintiffs cannot dispute and do not dispute that this [action] and *Freeman* are basically identical"

Id. at 10-11.

Accordingly, the Moving Defendants respectfully request that this action be deemed related to the *Freeman* action and reassigned to Chief Judge Irizarry. Pursuant to the Court's Guidelines, we have conferred with Plaintiffs' counsel, John Driscoll, regarding this request.

Respectfully submitted,



John D. Buretta

Mr. Robert A. Gavin, Jr.
Clerk of the Court
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

VIA ECF

Copies to:

Honorable Nicholas G. Garaufis
United States District Judge
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

VIA ECF

Honorable Dora L. Irizarry
Chief United States District Judge
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

VIA FED-EX

All counsel

VIA ECF